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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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| In re patent application of: |) | |
| |) | |
| George Frey et al. |) | Before the Examiner: |
| |) | Javier G. Blanco |
| |) | |
| Serial No. 10/721,642 |) | Group Art Unit: 3738 |
| |) | |
| Filed: November 25, 2003 |) | Attorney Docket: MSDI-263/PC401.15 |
| |) | |
| DEVICES AND TECHNIQUES FOR A |) | April 10, 2007 |
| POSTERIOR LATERAL DISC SPACE |) | |
| APPROACH |) | |

TERMINAL DISCLAIMER

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The undersigned attorney of record hereby represents that the owner Warsaw Orthopedic, Inc., a corporation of the State of Indiana, having a principal place of business at 2500 Silveus Crossing, Warsaw, Indiana 46581, and successor in interest to SDGI Holdings, Inc., has a 100% ownership interest in the instant application and U.S. Patent No. 7,060,073, as evidenced by the following documents:

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office at 571-273-8300 on:

April 10, 2007

Date of Transmission

Douglas A. Collier

Name of Registered Representative

Douglas A. Collier
SignatureApril 10, 2007

Date of Signature

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Assignment of U.S. Patent No. 7,060,073 from George Frey, John L. White, Steven D. DeRidder and Harald Ebner to SDGI Holdings, Inc. as recorded by the U.S. Patent and Trademark Office on April 10, 2002, at Reel 012792, Frame 0111, whose interest was transferred through a merger to Warsaw Orthopedics, Inc. as recorded by the U.S. Patent and Trademark Office on December 12, 2006 at Reel 018616, Frame 0454; and **Assignment** of U.S. Patent No. 6,830,570 and of the present application through the parent '570 patent from Loic Josse, Lawrence M. Boyd, George Frey and Mingyan Liu to SDGI Holdings, Inc. as recorded by the U.S. Patent and Trademark Office on January 26, 2001, at Reel 011477, Frame 0985; and Certificate of Merger of SDGI Holdings, Inc. into Warsaw Orthopedic, Inc.

The undersigned attorney of record, on behalf of the owner, hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application that would extend beyond the expiration date of the full statutory term of U.S. Patent No. 7,060,073 (hereafter "the prior patent"), as the term of the prior patent is defined in 35 U.S.C. §§154 and 173, and as the term of the prior patent is presently shortened by any terminal disclaimers. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full

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statutory term as defined in 35 U.S.C. §§154 and 173 of the prior patent, as the term of the prior patent is presently shortened by a terminal disclaimer, in the event that the prior patent later: expires for failure to pay a maintenance fee; is held unenforceable; is found invalid by a court of competent jurisdiction; is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. §1.321; has all claims cancelled by a reexamination certificate; is reissued; or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Enclosed is the statutory fee of \$130.00 pursuant to 37 C.F.R. §1.20(d). In addition, please provide any extensions of time that may be necessary and charge any fees that may be due to Deposit Account No. 12-2424, but do not include any payment of issue fees that are or may become due.

Respectfully submitted,

By: Douglas A. Collier

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